

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JEFFERSON CITY COUNTRY CLUB

APPELLANT,

**v.
LYDIA PACE AND TREASURER OF
THE STATE OF MISSOURI,
CUSTODIAN OF THE SECOND INJURY FUND**

RESPONDENTS.

DOCKET NUMBER WD79405

DATE: September 27, 2016

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Two: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Attorneys:

Mary A. Lindsey, St. Louis, MO, for appellant.

Truman E. Allen, Columbia, MO, for respondent Lydia Pace.
Maggie Ahrens, Jefferson City, MO, for respondent Second Injury Fund.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
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APPELLANT,

v.

**LYDIA PACE AND TREASURER OF THE
STATE OF MISSOURI, CUSTODIAN
OF THE SECOND INJURY FUND,**

RESPONDENTS.

No. WD79405

Labor and Industrial Relations Commission

Before Division Two: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Jefferson City Country Club ("Employer") appeals the unanimous Final Award of the Labor and Industrial Relations Commission (the "Commission"), which awarded Lydia Pace ("Pace") certain worker's compensation benefits arising out of injuries she sustained while working for Employer. Employer raises eleven claims of error.

WE AFFIRM

Division Two holds:

(Point One) The Commission did not use the wrong legal standard when it found that Pace's depression was compensable, as it found work was a substantial factor in causing her depression.

(Points Two and Three) The Commission's decision finding that work was a substantial factor in causing Pace's depression was supported by substantial and competent evidence.

(Point Four) The Commission did not err in granting Pace future medical care for her neck and right shoulder as that determination was supported by substantial and competent evidence.

(Point Five) The Commission did not err in granting Pace future medical care for her depression as that determination was supported by substantial and competent evidence.

(Point Six) The Commission did not err by treating the parties' stipulation as to the date of maximum medical improvement as conclusive proof that Pace remained in need of care as it only treated the stipulation as additional evidence bolstering the Commission's independent finding that Pace qualified for temporary total disability during the disputed time period.

(Point Seven) The Commission did not err in finding that Pace was engaged in the "rehabilitative process" between November 17, 2005 and January 2, 2011 because that finding is not contrary to the overwhelming weight of the evidence.

(Point Eight) The Commission did not err in modifying the ALJ's finding in the temporary award that Pace was not entitled to temporary total disability following November 17, 2005, because Pace presented additional significant evidence on that issue at the final hearing that was not before the ALJ at the time she issued the temporary award.

(Point Nine) The Commission did not err in finding that Pace was permanently and totally disabled because its finding is supported by substantial and competent evidence.

(Point Ten) The Commission did not err by failing to utilize the appropriate statutory standards regarding permanent and total disability in that the Commission answered the question whether, in the ordinary course of business, any employer would reasonably be expected to hire the worker in her physical condition.

(Point Eleven) The Commission did not err in finding that the Second Injury Fund was not liable, as Pace had no preexisting disability at the time she sustained her work injury.

Opinion by Gary D. Witt, Judge

September 27, 2016

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